

Senate File 2247

AN ACT
RELATING TO TERMINOLOGY CHANGES IN IOWA CODE REFERENCES TO
MENTAL RETARDATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 4.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 09A. "*Intellectual disability*" means a disability of children and adults who as a result of inadequately developed intelligence have a significant

impairment in ability to learn or to adapt to the demands of society, and, if a diagnosis is required, "*intellectual disability*" means a diagnosis of mental retardation as defined in the diagnostic and statistical manual of mental disorders, fourth edition, text revised, published by the American psychiatric association.

Sec. 2. Section 4.1, subsection 21A, Code 2011, is amended to read as follows:

21A. *Persons with mental illness.* The words "*persons with mental illness*" include persons with psychosis, persons who are severely depressed, and persons with any type of mental disease or mental disorder, except that mental illness does not refer to ~~mental retardation as defined in section 222.2~~ intellectual disability, or to insanity, diminished responsibility, or mental incompetency as defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules. A person who is hospitalized or detained for treatment of mental illness shall not be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section 229.27.

Sec. 3. Section 8A.311, subsection 16, Code Supplement 2011, is amended to read as follows:

16. A state agency shall make every effort to purchase those products produced for sale by sheltered workshops, work activity centers, and other special programs funded in whole or in part by public moneys that employ persons with ~~mental retardation~~ an intellectual disability or other developmental disabilities or mental illness if the products meet the required specifications.

Sec. 4. Section 23A.2, subsection 10, paragraph 1, subparagraph (4), Code 2011, is amended to read as follows:

(4) Nothing in this paragraph shall be construed to prohibit a state resource center from providing a service a resident needs for compliance with accreditation standards for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability.

Sec. 5. Section 48A.2, subsection 3, Code 2011, is amended to read as follows:

3. "*Person who is incompetent to vote*" means a person ~~described in section 222.2, subsection 5,~~ with an intellectual disability who has been found to lack the mental capacity to vote in a proceeding held pursuant to section 222.31 or 633.556.

Sec. 6. Section 126.16, subsection 2, Code 2011, is amended to read as follows:

2. For the purpose of this chapter, advertising is false if it represents a drug, device, or cosmetic to have any effect in the diagnosis, prevention, or treatment of arthritis, blood disorders, bone or joint diseases, kidney diseases or disorders, cancer, diabetes, gall bladder disease or disorders, heart and vascular disease, high blood pressure, diseases or disorders of the ear, mental disease or ~~mental retardation~~ an intellectual disability, degenerative neurological diseases, paralysis, prostate gland disorders, conditions of the scalp affecting hair loss, baldness, endocrine disorders, sexual impotence, tumors, venereal diseases, varicose ulcers, breast enlargement, purifying blood, metabolic disorders, immune system disorders or conditions affecting the immune system, extension of life expectancy, stress and tension, brain stimulation or performance, the body's natural defense mechanisms, blood flow, and depression. However, advertising not in violation of subsection 1 is not false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices. However, if the board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named in this subsection, the board shall by rule authorize the advertising of drugs having curative or therapeutic effect for such disease, subject to the conditions and restrictions the board deems necessary in the interests of the public health. However, this subsection does not indicate that self-medication for diseases other than those named in this subsection is safe and efficacious.

Sec. 7. Section 135.63, subsection 1, Code 2011, is amended to read as follows:

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt of a certificate of need, pursuant to this division. The application shall be made upon forms furnished or prescribed by the department and shall contain such information as the department may require under this division.

The application shall be accompanied by a fee equivalent to three-tenths of one percent of the anticipated cost of the project with a minimum fee of six hundred dollars and a maximum fee of twenty-one thousand dollars. The fee shall be remitted by the department to the treasurer of state, who shall place it in the general fund of the state. If an application is voluntarily withdrawn within thirty calendar days after submission, seventy-five percent of the application fee shall be refunded; if the application is voluntarily withdrawn more than thirty but within sixty days after submission, fifty percent of the application fee shall be refunded; if the application is withdrawn voluntarily more than sixty days after submission, twenty-five percent of the application fee shall be refunded. Notwithstanding the required payment of an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability or an intermediate care facility for persons with mental illness as defined pursuant to section 135C.1 is exempt from payment of the application fee.

Sec. 8. Section 135.63, subsection 2, paragraphs f and p, Code 2011, are amended to read as follows:

f. A residential care facility, as defined in section 135C.1, including a residential care facility for persons with ~~mental retardation~~ an intellectual disability, notwithstanding any provision in this division to the contrary.

p. The conversion of an existing number of beds by an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability to a smaller facility environment, including but not limited to a community-based environment which does not result in an increased number of beds, notwithstanding any provision in this division to the contrary, including subsection 4, if all of the following conditions exist:

(1) The intermediate care facility for persons with ~~mental retardation~~ an intellectual disability reports the number and type of beds to be converted on a form prescribed by the department at least thirty days before the conversion.

(2) The intermediate care facility for persons with ~~mental retardation~~ an intellectual disability reports the conversion of beds on its next annual report to the department.

Sec. 9. Section 135.63, subsection 4, unnumbered paragraph

1, Code 2011, is amended to read as follows:

A copy of the application shall be sent to the department of human services at the time the application is submitted to the Iowa department of public health. The department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability unless both of the following conditions are met:

Sec. 10. Section 135.63, subsection 4, paragraph a, Code 2011, is amended to read as follows:

a. The new or changed beds shall not result in an increase in the total number of medical assistance certified intermediate care facility beds for persons with ~~mental retardation~~ an intellectual disability in the state, exclusive of those beds at the state resource centers or other state institutions, beyond one thousand six hundred thirty-six beds.

Sec. 11. Section 135C.1, subsections 6, 9, and 13, Code 2011, are amended to read as follows:

6. "*Health care facility*" or "*facility*" means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

9. "*Intermediate care facility for persons with ~~mental retardation~~ an intellectual disability*" means an institution or distinct part of an institution with a primary purpose to provide health or rehabilitative services to three or more individuals, who primarily have ~~mental retardation~~ an intellectual disability or a related condition and who are not related to the administrator or owner within the third degree of consanguinity, and which meets the requirements of this chapter and federal standards for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1936d, which are contained in 42 C.F.R. pt. 483, subpt. D, § 410 - 480.

13. "*Nursing facility*" means an institution or a distinct part of an institution housing three or more individuals not related to the administrator or owner within the third degree of consanguinity, which is primarily engaged in providing health-related care and services, including rehabilitative services, but which is not engaged primarily in providing

treatment or care for mental illness or ~~mental retardation~~ an intellectual disability, for a period exceeding twenty-four consecutive hours for individuals who, because of a mental or physical condition, require nursing care and other services in addition to room and board.

Sec. 12. Section 135C.2, subsection 3, paragraphs b, c, and d, Code 2011, are amended to read as follows:

b. The department may also establish by administrative rule special classifications within the residential care facility, intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, or nursing facility categories, for facilities intended to serve individuals who have special health care problems or conditions in common. Rules establishing a special classification shall define the problem or condition to which the special classification is relevant and establish requirements for an approved program of care commensurate with the problem or condition. The rules may grant special variances or considerations to facilities licensed within the special classification.

c. The rules adopted for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order for an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability to be licensed, the state fire marshal must certify to the department that the facility meets the applicable provisions of the rules adopted for such facilities by the state fire marshal. The state fire marshal's rules shall be based upon such a facility's compliance with either the provisions applicable to health care occupancies or residential board and care occupancies of the life safety code of the national fire protection association, 2000 edition. The department shall adopt additional rules for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability pursuant to section 135C.14, subsection 8.

d. Notwithstanding the limitations set out in this subsection regarding rules for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability,

the department shall consider the federal interpretive guidelines issued by the federal centers for Medicare and Medicaid services when interpreting the department's rules for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability. This use of the guidelines is not subject to the rulemaking provisions of sections 17A.4 and 17A.5, but the guidelines shall be published in the Iowa administrative bulletin and the Iowa administrative code.

Sec. 13. Section 135C.2, subsection 5, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The department shall establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with ~~mental retardation~~ an intellectual disability, chronic mental illness, a developmental disability, or brain injury, as described under section 225C.26, and which contain five or fewer residents. A facility within the special classification established pursuant to this subsection is exempt from the requirements of section 135.63. The department shall adopt rules which are consistent with rules previously developed for the waiver demonstration project pursuant to 1986 Iowa Acts, chapter 1246, section 206, and which include all of the following provisions:

Sec. 14. Section 135C.2, subsection 5, paragraphs a and f, Code 2011, are amended to read as follows:

a. A facility provider under the special classification must comply with rules adopted by the department for the special classification. However, a facility provider which has been accredited by the accreditation council for services to persons with ~~mental retardation~~ an intellectual disability and other developmental disabilities shall be deemed to be in compliance with the rules adopted by the department.

f. The facilities licensed under this subsection shall be eligible for funding utilized by other licensed residential care facilities for persons with ~~mental retardation~~ an intellectual disability, or licensed residential care facilities for persons with mental illness, including but not limited to funding under or from the federal social services block grant, the state supplementary assistance program, state mental health and developmental disabilities services funds, and county funding provisions.

Sec. 15. Section 135C.6, subsection 8, paragraphs a and b,

Code 2011, are amended to read as follows:

a. Residential programs providing care to not more than four individuals and receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with intellectual disabilities or other medical assistance program under chapter 249A. In approving a residential program under this paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this paragraph, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with ~~mental retardation~~ an intellectual disability.

b. Not more than forty residential care facilities for persons with ~~mental retardation~~ an intellectual disability that are licensed to serve not more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with intellectual disabilities. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph "a" except that the program shall not serve more than five individuals.

Sec. 16. Section 135C.6, subsection 9, Code 2011, is amended to read as follows:

9. Contingent upon the department of human services receiving federal approval, a residential program which serves not more than eight individuals and is licensed as an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability may surrender the facility license and continue to operate under a federally approved medical assistance home and community-based services waiver for persons with an intellectual disabilities disability, if the department of human services has approved a plan submitted by the residential program.

Sec. 17. Section 135C.23, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or

county care facility when the intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and disability services commission created in section 225C.5, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities for persons with mental illness, intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability, nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

Sec. 18. Section 135C.25, subsection 1, Code 2011, is amended to read as follows:

1. Each health care facility shall have a resident advocate committee whose members shall be appointed by the director of the department on aging or the director's designee. A person shall not be appointed a member of a resident advocate committee for a health care facility unless the person is a resident of the service area where the facility is located. The resident advocate committee for any facility caring primarily for persons with mental illness, ~~mental retardation~~ an intellectual disability, or a developmental disability shall only be appointed after consultation with the administrator of the division of mental health and disability services of the department of human services on the proposed appointments. Recommendations to the director or the director's designee for membership on resident advocate committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the resident advocate committee and shall not be present at committee meetings except upon request of the committee.

Sec. 19. Section 155.1, subsection 3, Code 2011, is amended to read as follows:

3. "*Nursing home*" means an institution or facility, or part of an institution or facility, whether proprietary or nonprofit, licensed as a nursing facility, but not including an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability or an intermediate care facility for persons with mental illness, defined as such for licensing purposes under state law or administrative rule adopted pursuant to section 135C.2, including but not limited to, a nursing home owned or administered by the federal or state government or an agency or political subdivision of government.

Sec. 20. Section 217.1, Code 2011, is amended to read as follows:

217.1 Programs of department.

There is established a department of human services to administer programs designed to improve the well-being and productivity of the people of the state of Iowa. The department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child, and adult welfare, economic assistance including costs of medical care, rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of juvenile offenders, care and treatment of persons with mental illness or ~~mental retardation~~ an intellectual disability, and other related programs as provided by law.

Sec. 21. Section 218.92, Code 2011, is amended to read as follows:

218.92 Patients with dangerous mental disturbances.

When a patient in a state resource center for persons with ~~mental retardation~~ an intellectual disability, a state mental health institute, or another institution under the administration of the department of human services has become so mentally disturbed as to constitute a danger to self, to other patients or staff of the institution, or to the public, and the institution cannot provide adequate security, the administrator in charge of the institution, with the consent of the director of the Iowa department of corrections, may order the patient to be transferred to the Iowa medical and classification center, if the superintendent of the institution from which the patient is to be transferred, with the support of a majority of the medical staff, recommends the transfer in

the interest of the patient, other patients, or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court that ordered the hospitalization of the patient, as required by section 229.15, subsection 5. The Iowa medical and classification center has the same rights, duties, and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized in the institution. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 22. Section 222.1, Code 2011, is amended to read as follows:

222.1 Purpose of state resource centers.

1. The Glenwood state resource center and the Woodward state resource center are established and shall be maintained as the state's regional resource centers for the purpose of providing treatment, training, instruction, care, habilitation, and support of persons with ~~mental retardation~~ an intellectual disability or other disabilities in this state, and providing facilities, services, and other support to the communities located in the region being served by a state resource center. In addition, the state resource centers are encouraged to serve as a training resource for community-based program staff, medical students, and other participants in professional education programs. A resource center may request the approval of the council on human services to change the name of the resource center for use in communication with the public, in signage, and in other forms of communication.

2. A special ~~mental retardation~~ intellectual disability unit may be maintained at one of the state mental health institutes for the purposes set forth in sections 222.88 to 222.91.

Sec. 23. Section 222.2, subsections 5 and 6, Code 2011, are amended to read as follows:

5. ~~"Mental retardation" or "mentally retarded"~~ "Intellectual disability" means ~~a term or terms to describe children and adults who as a result of inadequately developed intelligence are significantly impaired in ability to learn or to adapt to the demands of society~~ the same as defined in section 4.1.

6. "Special unit" means a special ~~mental retardation~~ intellectual disability unit established at a state mental health institute pursuant to sections 222.88 to 222.91.

Sec. 24. Section 222.6, Code 2011, is amended to read as follows:

222.6 State districts.

The administrator shall divide the state into two districts in such manner that one of the resource centers shall be located within each of the districts. Such districts may from time to time be changed. After such districts have been established, the administrator shall notify all boards of supervisors, county auditors, and clerks of the district courts of the action. Thereafter, unless the administrator otherwise orders, all admissions or commitments of persons with ~~mental retardation~~ an intellectual disability from a district shall be to the resource center located within such district.

Sec. 25. Section 222.9, Code 2011, is amended to read as follows:

222.9 Unauthorized departures.

If any person with ~~mental retardation~~ an intellectual disability shall depart without proper authorization from a resource center or a special unit, it shall be the duty of the superintendent and the superintendent's assistants and all peace officers of any county in which such patient may be found to take and detain the patient without a warrant or order and to immediately report such detention to the superintendent who shall immediately provide for the return of such patient to the resource center or special unit.

Sec. 26. Section 222.10, Code 2011, is amended to read as follows:

222.10 Duty of peace officer.

When any person with ~~mental retardation~~ an intellectual disability departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain the patient without warrant or order and shall report such detention to the administrator. The administrator shall provide for the return of the patient to the authorities in the state from which the unauthorized departure was made. Pending return, such patient may be detained temporarily at one of the institutions of this state governed by the administrator or by the administrator of the division of child and family services of the department of human services. The provisions of this section relating to the administrator shall also apply to the return of other nonresident persons with ~~mental retardation~~ an intellectual disability having legal settlement outside the

state of Iowa.

Sec. 27. Section 222.12, subsections 1 and 3, Code 2011, are amended to read as follows:

1. Upon the death of a patient of a resource center or special unit, a preliminary investigation of the death shall be conducted as required by section 218.64 by the county medical examiner as provided in section 331.802. Such a preliminary investigation shall also be conducted in the event of a sudden or mysterious death of a patient in a private institution for persons with ~~mental retardation~~ an intellectual disability. The chief administrative officer of any private institution may request an investigation of the death of any patient by the county medical examiner.

3. The parent, guardian, or other person responsible for the admission of a patient to a private institution for persons with ~~mental retardation~~ an intellectual disability may also request such a preliminary investigation by the county medical examiner in the event of the death of the patient that is not sudden or mysterious. The person or persons making the request are liable for the expense of such preliminary investigation and payment for the expense may be required in advance.

Sec. 28. Section 222.13, subsections 1 and 2, Code 2011, are amended to read as follows:

1. If an adult person is believed to be a person with ~~mental retardation~~ an intellectual disability, the adult person or the adult person's guardian may submit a request through the central point of coordination process for the county board of supervisors to apply to the superintendent of any state resource center for the voluntary admission of the adult person either as an inpatient or an outpatient of the resource center. After determining the legal settlement of the adult person as provided by this chapter, the board of supervisors shall, on forms prescribed by the administrator, apply to the superintendent of the resource center in the district for the admission of the adult person to the resource center. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the adult person or the adult person's guardian. The superintendent shall accept the application providing a preadmission diagnostic evaluation, performed through the central point of coordination process, confirms or establishes the need for admission, except that an application

may not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

2. If the resource center has no appropriate program for the treatment of an adult or minor person with ~~mental-retardation~~ an intellectual disability applying under this section or section 222.13A, the board of supervisors shall arrange for the placement of the person in any public or private facility within or without the state, approved by the director of the department of human services, which offers appropriate services for the person, as determined through the central point of coordination process.

Sec. 29. Section 222.13A, subsections 1 and 2, Code 2011, are amended to read as follows:

1. If a minor is believed to be a person with ~~mental-retardation~~ an intellectual disability, the minor's parent, guardian, or custodian may request the county board of supervisors to apply for admission of the minor as a voluntary patient in a state resource center. If the resource center does not have appropriate services for the minor's treatment, the board of supervisors may arrange for the admission of the minor in a public or private facility within or without the state, approved by the director of human services, which offers appropriate services for the minor's treatment.

2. Upon receipt of an application for voluntary admission of a minor, the board of supervisors shall provide for a preadmission diagnostic evaluation of the minor to confirm or establish the need for the admission. The preadmission diagnostic evaluation shall be performed by a person who meets the qualifications of a qualified ~~mental-retardation~~ intellectual disability professional who is designated through the central point of coordination process.

Sec. 30. Section 222.16, Code 2011, is amended to read as follows:

222.16 Petition for adjudication of ~~mental-retardation~~ intellectual disability.

A petition for the adjudication of ~~the mental-retardation~~ of a person as having an intellectual disability within the meaning of this chapter may, with the permission of the court, be filed without fee against a person with the clerk of the district court of the county or city in which the person who is alleged to have ~~mental-retardation~~ an intellectual disability resides or is found. The petition may be filed by any relative

of the person, by a guardian, or by any reputable citizen of the county where the person who is alleged to have ~~mental retardation~~ an intellectual disability resides or is found.

Commitment of a person pursuant to section 222.31 does not constitute a finding or raise a presumption that the person is incompetent to vote. The court shall make a separate determination as to the person's competency to vote. The court shall find a person incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

Sec. 31. Section 222.17, subsection 1, Code 2011, is amended to read as follows:

1. Allege that such person ~~is mentally retarded~~ has an intellectual disability within the meaning of this chapter.

Sec. 32. Section 222.18, Code 2011, is amended to read as follows:

222.18 County attorney to appear.

The county attorney shall, if requested, appear on behalf of any petitioner for the commitment of a person alleged to ~~be mentally retarded~~ have an intellectual disability under this chapter, and on behalf of all public officials and superintendents in all matters pertaining to the duties imposed upon them by this chapter.

Upon the filing of the petition, the court shall enter an order directing the county attorney of the county in which the person who is alleged to have ~~mental retardation~~ an intellectual disability resides to make a full investigation regarding the financial condition of that person and of those persons legally liable for that person's support under section 222.78.

Sec. 33. Section 222.19, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The following persons, in addition to the person alleged to ~~be mentally retarded~~ have an intellectual disability, shall be made party respondents if the persons reside in this state and their names and residences are known:

Sec. 34. Section 222.21, Code 2011, is amended to read as follows:

222.21 Order requiring attendance.

If the person alleged to have ~~mental retardation~~ an intellectual disability is not before the court, the court may issue an order requiring the person who has the care, custody, and control of the person who is alleged to have ~~mental~~

~~retardation~~ an intellectual disability to bring the person into court at the time and place stated in the order.

Sec. 35. Section 222.22, Code 2011, is amended to read as follows:

222.22 Time of appearance.

The time of appearance shall not be less than five days after completed service unless the court orders otherwise. Appearance on behalf of the person who is alleged to have ~~mental-retardation~~ an intellectual disability may be made by any citizen of the county or by any relative. The district court shall assign counsel for the person who is alleged to have ~~mental-retardation~~ an intellectual disability. Counsel shall prior to proceedings personally consult with the person who is alleged to have ~~mental-retardation~~ an intellectual disability unless the judge appointing counsel certifies that in the judge's opinion, consultation shall serve no useful purpose. The certification shall be made a part of the record. An attorney assigned by the court shall be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 36. Section 222.25, Code 2011, is amended to read as follows:

222.25 Custody pending hearing.

Pending final hearing, the court may at any time after the filing of the petition and on satisfactory showing that it is in the best interest of the person who is alleged to have ~~mental-retardation~~ an intellectual disability and of the community that the person be at once taken into custody, or that service of notice will be ineffectual if the person is not taken into custody, issue an order for the immediate production of the person before the court. In such case, the court may make any proper order for the custody or confinement of the person as will protect the person and the community and insure the presence of the person at the hearing. The person shall not be confined with those accused or convicted of crime.

Sec. 37. Section 222.27, Code 2011, is amended to read as follows:

222.27 Hearing in public.

Hearings shall be public, unless otherwise requested by the parent, guardian, or other person having the custody of the person with ~~mental-retardation~~ an intellectual disability, or if the judge considers, a closed hearing in the best

interests of the person with ~~mental retardation~~ an intellectual disability.

Sec. 38. Section 222.28, Code 2011, is amended to read as follows:

222.28 Commission to examine.

The court may, at or prior to the final hearing, appoint a commission of one qualified physician and one qualified psychologist, designated through the central point of coordination process, who shall make a personal examination of the person alleged to ~~be mentally retarded~~ have an intellectual disability for the purpose of determining the mental condition of the person.

Sec. 39. Section 222.31, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

If in the opinion of the court, or of a commission as authorized in section 222.28, the person ~~is mentally retarded~~ has an intellectual disability within the meaning of this chapter and the court determines that it will be conducive to the welfare of that person and of the community to commit the person to a proper institution for treatment, training, instruction, care, habilitation, and support, and that services or support provided to the family of such a person who is a child will not enable the family to continue to care for the child in the child's home, the court shall by proper order:

Sec. 40. Section 222.34, Code 2011, is amended to read as follows:

222.34 Guardianship proceedings.

If a guardianship is proposed for a person with ~~mental retardation~~ an intellectual disability, guardianship proceedings shall be initiated and conducted as provided in chapter 633.

Sec. 41. Section 222.38, Code 2011, is amended to read as follows:

222.38 Delivery of person to institution, resource center, or special unit.

The court may, for the purpose of committing a person direct the clerk to authorize the employment of one or more assistants. If a person with ~~mental retardation~~ an intellectual disability is taken to an institution, resource center, or special unit, at least one attendant shall be of the same sex.

Sec. 42. Section 222.43, subsection 1, paragraphs a, b, and c, Code 2011, are amended to read as follows:

a. That the person adjudged to ~~be mentally retarded is not mentally retarded~~ have an intellectual disability does not have an intellectual disability.

b. That the person adjudged to ~~be mentally retarded~~ have an intellectual disability has improved as to be capable of ~~self~~ care self-care.

c. That the relatives or friends of the person with ~~mental retardation~~ an intellectual disability are able and willing to support and care for the person with ~~mental retardation~~ an intellectual disability and request the person's discharge, and in the judgment of the superintendent of the institution or resource center having charge of the person, no harmful consequences are likely to follow such discharge.

Sec. 43. Section 222.45, Code 2011, is amended to read as follows:

222.45 Power of court.

On the hearing, the court may discharge the person with ~~mental retardation~~ an intellectual disability from all supervision, control, and care, or may transfer the person from a public institution to a private institution, or vice versa, or transfer the person from a special unit to a resource center, or vice versa, as the court deems appropriate under all the circumstances. If the person has been determined to lack the mental capacity to vote, the court shall include in its order a finding that this determination remains in force or is revoked.

Sec. 44. Section 222.47, Code 2011, is amended to read as follows:

222.47 Penalty for false petition of commitment.

Any person who shall maliciously seek to have any person adjudged ~~mentally retarded~~ as a person with an intellectual disability, knowing that such person ~~is not mentally retarded~~ does not have an intellectual disability, shall be guilty of a fraudulent practice.

Sec. 45. Section 222.49, Code 2011, is amended to read as follows:

222.49 Costs paid.

The costs of proceedings shall be defrayed from the county treasury unless otherwise ordered by the court. When the person alleged to ~~be mentally retarded~~ have an intellectual disability is found not to ~~be mentally retarded~~ have an intellectual disability, the court shall render judgment for such costs against the person filing the petition except when

the petition is filed by order of court.

Sec. 46. Section 222.50, Code 2011, is amended to read as follows:

222.50 County of legal settlement to pay.

When the proceedings are instituted in a county in which the person who is alleged to have ~~mental retardation~~ an intellectual disability was found but which is not the county of legal settlement of the person, and the costs are not taxed to the petitioner, the county which is the legal settlement of the person shall, on presentation of a properly itemized bill for such costs, repay the costs to the former county. When the person's legal settlement is outside the state or is unknown, the costs shall be paid out of money in the state treasury not otherwise appropriated, itemized on vouchers executed by the auditor of the county which paid the costs, and approved by the administrator.

Sec. 47. Section 222.51, Code 2011, is amended to read as follows:

222.51 Costs collected.

Costs incident to the hearings and commitment of a person with ~~mental retardation~~ an intellectual disability to an institution, a resource center, or a special unit may be collected from the person with ~~mental retardation~~ an intellectual disability and from all persons legally chargeable with the support of the person with ~~mental retardation~~ an intellectual disability.

Sec. 48. Section 222.52, Code 2011, is amended to read as follows:

222.52 Proceedings against delinquent — hearing on ~~retardation~~ intellectual disability.

When in proceedings against an alleged delinquent or dependent child, the court is satisfied from any evidence that such child ~~is mentally retarded~~ has an intellectual disability, the court may order a continuance of such proceeding, and may direct an officer of the court or some other proper person to file a petition against such child permitted under the provisions of this chapter. Pending hearing of the petition the court may by order provide proper custody for the child.

Sec. 49. Section 222.53, Code 2011, is amended to read as follows:

222.53 Conviction — suspension.

If on the conviction in the district court of any person for any crime or for any violation of any municipal ordinance,

or if on the determination in ~~said courts~~ the court that a child is dependent, neglected, or delinquent and it appears from any evidence presented to the court before sentence, that such person ~~is mentally retarded~~ has an intellectual disability within the meaning of this chapter, the court may suspend sentence or order, and may order any officer of the court or some other proper person to file a petition permitted under the provisions of this chapter against ~~said~~ such person. Pending hearing of the petition, the court shall provide for the custody of ~~said~~ such person as directed in section 222.52.

Sec. 50. Section 222.54, Code 2011, is amended to read as follows:

222.54 Procedure after hearing.

Should it be found under sections 222.52 and 222.53 that ~~said such person is not mentally retarded~~ does not have an intellectual disability, the court shall proceed with the original proceedings as though no petition had been filed.

Sec. 51. Section 222.56, Code 2011, is amended to read as follows:

222.56 Transfer to institution for persons with mental ~~retardation~~ an intellectual disability.

When the mental condition of a person in a private institution for persons with mental illness is found to be such that the patient should be transferred to an institution for persons with ~~mental retardation~~ an intellectual disability, the person may be proceeded against under this chapter.

Sec. 52. Section 222.58, Code 2011, is amended to read as follows:

222.58 Administrator to keep record.

The administrator shall keep a record of all persons adjudged to ~~be mentally retarded~~ have an intellectual disability and of the orders respecting such persons by the courts throughout the state. Copies of such orders shall be furnished by the clerk of the court without the administrator's application therefor.

Sec. 53. Section 222.60, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of persons with ~~mental retardation~~ an intellectual disability, as provided for in the county management plan provisions implemented pursuant to section 331.439, subsection 1, in a state resource center, or

in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

Sec. 54. Section 222.60, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Prior to a county of legal settlement approving the payment of expenses for a person under this section, the county may require that the person be diagnosed to determine if the person has ~~mental-retardation~~ an intellectual disability or that the person be evaluated to determine the appropriate level of services required to meet the person's needs relating to ~~mental-retardation~~ an intellectual disability. The diagnosis and the evaluation may be performed concurrently and shall be performed by an individual or individuals approved by the county who are qualified to perform the diagnosis or the evaluation. Following the initial approval for payment of expenses, the county of legal settlement may require that an evaluation be performed at reasonable time periods.

Sec. 55. Section 222.60, subsection 3, Code 2011, is amended to read as follows:

3. a. A diagnosis of ~~mental-retardation~~ an intellectual disability under this section shall be made only when the onset of the person's condition was prior to the age of eighteen years and shall be based on an assessment of the person's intellectual functioning and level of adaptive skills. The diagnosis shall be made by an individual who is a psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person's adaptive skills.

b. A diagnosis of ~~mental-retardation~~ an intellectual disability shall be made in accordance with the criteria provided in the diagnostic and statistical manual of mental disorders, ~~fourth edition~~, published by the American psychiatric association, as provided in the definition of intellectual disability in section 4.1.

Sec. 56. Section 222.66, Code 2011, is amended to read as follows:

222.66 Transfers — expenses.

The transfer to a resource center or a special unit or to the place of legal settlement of a person with ~~mental-retardation~~ an intellectual disability who has no legal settlement in this state or whose legal settlement is unknown, shall be made in accordance with such directions as shall be prescribed

by the administrator and when practicable by employees of the state resource center or the special unit. The actual and necessary expenses of such transfers shall be paid on itemized vouchers sworn to by the claimants and approved by the administrator from any funds in the state treasury not otherwise appropriated.

Sec. 57. Section 222.78, Code 2011, is amended to read as follows:

222.78 Parents and others liable for support.

The father and mother of any patient admitted or committed to a resource center or to a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract made for support of the patient are liable for the support of the patient. The patient and those legally bound for the support of the patient shall be liable to the county for all sums advanced by the county to the state under the provisions of sections 222.60 and 222.77. The liability of any person, other than the patient, who is legally bound for the support of a patient who is under eighteen years of age in a resource center or a special unit shall not exceed the average minimum cost of the care of a normally intelligent minor without a disability of the same age and sex as the minor patient. The administrator shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the family investment program. The father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. The father or mother of a patient shall not be liable for the support of the patient upon the patient attaining eighteen years of age. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the administrator for caring for the patient with ~~mental retardation~~ an intellectual disability.

Sec. 58. Section 222.80, Code 2011, is amended to read as follows:

222.80 Liability to county.

A person admitted or committed to a county institution or home or admitted or committed at county expense to a private hospital, sanitarium, or other facility for treatment,

training, instruction, care, habilitation, and support as a patient with ~~mental-retardation~~ an intellectual disability shall be liable to the county for the reasonable cost of the support as provided in section 222.78.

Sec. 59. Section 222.88, Code 2011, is amended to read as follows:

222.88 Special ~~mental-retardation~~ intellectual disability unit.

The director of human services may organize and establish a special ~~mental-retardation~~ intellectual disability unit at an existing institution which may provide:

1. Psychiatric and related services to children with ~~mental-retardation~~ an intellectual disability and adults who are also emotionally disturbed or otherwise mentally ill.

2. Specific programs to meet the needs of such other special categories of persons with ~~mental-retardation~~ an intellectual disability as may be designated by the director.

3. Appropriate diagnostic evaluation services.

Sec. 60. Section 225C.1, subsection 1, Code 2011, is amended to read as follows:

1. The general assembly finds that services to persons with mental illness, ~~mental-retardation~~ an intellectual disability, developmental disabilities, or brain injury are provided in many parts of the state by highly autonomous community-based service providers working cooperatively with state and county officials. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and ~~mental-retardation~~ intellectual disability services has enabled many counties to exceed minimum state standards for the services resulting in an uneven level of services around the state. Consequently, greater efforts should be made to ~~assure~~ ensure close coordination and continuity of care for those persons receiving publicly supported disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the services to persons with disabilities now available in the state of Iowa, to make disability services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

Sec. 61. Section 225C.2, subsections 6 and 8, Code 2011, are amended to read as follows:

6. "*Disability services*" means services and other support available to a person with mental illness, ~~mental-retardation~~

an intellectual disability or other developmental disability, or brain injury.

8. "*Person with a disability*" means a person with mental illness, ~~mental retardation~~ an intellectual disability or other developmental disability, or brain injury.

Sec. 62. Section 225C.3, subsections 1 and 3, Code 2011, are amended to read as follows:

1. The division is designated the state mental health authority as defined in 42 U.S.C. § 201(m) (1976) for the purpose of directing the benefits of the National Mental Health Act, 42 U.S.C. § 201 et seq. This designation does not preclude the board of regents from authorizing or directing any institution under its jurisdiction to carry out educational, prevention, and research activities in the areas of mental health and ~~mental retardation~~ intellectual disability. The division may contract with the board of regents or any institution under the board's jurisdiction to perform any of these functions.

3. The division is administered by the administrator. The administrator of the division shall be qualified in the general field of mental health, ~~mental retardation~~ intellectual disability, or other disability services, and preferably in more than one field. The administrator shall have at least five years of experience as an administrator in one or more of these fields.

Sec. 63. Section 225C.4, subsection 1, paragraphs a, c, g, and q, Code 2011, are amended to read as follows:

a. Prepare and administer the comprehensive mental health and disability services plan as provided in section 225C.6B, including state mental health and ~~mental retardation~~ intellectual disability plans for the provision of disability services within the state and the state developmental disabilities plan. The administrator shall consult with the Iowa department of public health, the state board of regents or a body designated by the board for that purpose, the department of management or a body designated by the director of the department for that purpose, the department of education, the department of workforce development and any other appropriate governmental body, in order to facilitate coordination of disability services provided in this state. The state mental health and ~~mental retardation~~ intellectual disability plans shall be consistent with the state health plan, and shall incorporate county disability services plans.

c. Emphasize the provision of outpatient services by community mental health centers and local ~~mental-retardation~~ intellectual disability providers as a preferable alternative to inpatient hospital services.

g. Administer state programs regarding the care, treatment, and supervision of persons with mental illness or ~~mental-retardation~~ an intellectual disability, except the programs administered by the state board of regents.

g. In cooperation with the department of inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to persons with mental illness and ~~mental-retardation~~ an intellectual disability residing in county care facilities.

Sec. 64. Section 225C.5, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

A mental health and disability services commission is created as the state policy-making body for the provision of services to persons with mental illness, ~~mental-retardation~~ an intellectual disability, ~~or~~ other developmental disabilities, or brain injury. The commission's voting members shall be appointed to three-year staggered terms by the governor and are subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, ~~mental-retardation~~ intellectual disability, ~~or~~ other developmental disabilities, and brain injury, in a manner so as to ensure adequate representation from persons with disabilities and individuals knowledgeable concerning disability services. The department shall provide staff support to the commission, and the commission may utilize staff support and other assistance provided to the commission by other persons. The commission shall meet at least four times per year. The membership of the commission shall consist of the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

Sec. 65. Section 225C.7, subsections 2 and 4, Code 2011, are amended to read as follows:

2. Moneys appropriated to the fund shall be allocated to counties for funding of community-based mental health, ~~mental-retardation~~ intellectual disability, developmental disabilities, and brain injury services in the manner provided in the appropriation to the fund. If the allocation methodology includes a population factor, the most recent population estimates issued by the United States bureau of the

census shall be applied.

4. a. A county is entitled to receive money from the fund if that county raised by county levy and expended for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services, in the preceding fiscal year, an amount of money at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980.

b. With reference to the fiscal year beginning July 1, 1980, money "*raised by county levy and expended for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services*" means the county's maintenance of effort determined by using the general allocation application for the state community mental health and mental retardation services fund under section 225C.10, subsection 1, Code 1993. The department, with the agreement of each county, shall establish the actual amount expended by each county for persons with mental illness, ~~mental retardation~~ an intellectual disability, or a developmental disability in the fiscal year which began on July 1, 1980, and this amount shall be deemed each county's maintenance of effort.

Sec. 66. Section 225C.12, subsection 2, Code 2011, is amended to read as follows:

2. A county may claim reimbursement by filing with the administrator a claim in a form prescribed by the administrator by rule. Claims may be filed on a quarterly basis, and when received shall be verified as soon as reasonably possible by the administrator. The administrator shall certify to the director of the department of administrative services the amount to which each county claiming reimbursement is entitled, and the director of the department of administrative services shall issue warrants to the respective counties drawn upon funds appropriated by the general assembly for the purpose of this section. A county shall place funds received under this section in the county mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund created under section 331.424A. If the appropriation for a fiscal year is insufficient to pay all claims arising under this section, the director of the department of administrative services shall prorate the funds appropriated for that year among the claimant counties so that an equal proportion of each county's claim is paid in each quarter for which proration is necessary.

Sec. 67. Section 225C.13, subsection 2, Code 2011, is amended to read as follows:

2. The division administrator may work with the appropriate administrator of the department's institutions to establish mental health and ~~mental-retardation~~ intellectual disability services for all institutions under the control of the director of human services and to establish an autism unit, following mutual planning and consultation with the medical director of the state psychiatric hospital, at an institution or a facility administered by the department to provide psychiatric and related services and other specific programs to meet the needs of autistic persons, and to furnish appropriate diagnostic evaluation services.

Sec. 68. Section 225C.21, subsection 1, Code 2011, is amended to read as follows:

1. As used in this section, "*supported community living services*" means services provided in a noninstitutional setting to adult persons with mental illness, ~~mental-retardation~~ an intellectual disability, or developmental disabilities to meet the persons' daily living needs.

Sec. 69. Section 225C.25, Code 2011, is amended to read as follows:

225C.25 Short title.

Sections 225C.25 through 225C.28B shall be known as "the bill of rights and service quality standards of persons with ~~mental-retardation~~ an intellectual disability, developmental disabilities, brain injury, or chronic mental illness".

Sec. 70. Section 225C.26, Code 2011, is amended to read as follows:

225C.26 Scope.

These rights and service quality standards apply to any person with ~~mental-retardation~~ an intellectual disability, a developmental disability, brain injury, or chronic mental illness who receives services which are funded in whole or in part by public funds or services which are permitted under Iowa law.

Sec. 71. Section 225C.28A, unnumbered paragraph 1, Code 2011, is amended to read as follows:

As the state participates more fully in funding services and other support to persons with ~~mental-retardation~~ an intellectual disability, developmental disabilities, brain injury, or chronic mental illness, it is the intent of the general assembly that the state shall seek to attain the

following quality standards in the provision of the services:

Sec. 72. Section 225C.28B, Code 2011, is amended to read as follows:

225C.28B Rights of persons with ~~mental retardation~~ an intellectual disability, developmental disabilities, brain injury, or chronic mental illness.

All of the following rights shall apply to a person with ~~mental retardation~~ an intellectual disability, a developmental disability, brain injury, or chronic mental illness:

1. *Wage protection.* A person with ~~mental retardation~~ an intellectual disability, a developmental disability, brain injury, or chronic mental illness engaged in work programs shall be paid wages commensurate with the going rate for comparable work and productivity.

2. *Insurance protection.* Pursuant to section 507B.4, subsection 7, a person or designated group of persons shall not be denied insurance coverage by reason of ~~mental retardation~~ an intellectual disability, a developmental disability, brain injury, or chronic mental illness.

3. *Due process.* A person with ~~mental retardation~~ an intellectual disability, a developmental disability, brain injury, or chronic mental illness retains the right to citizenship in accordance with the laws of the state.

4. *Participation in planning activities.* If an individual treatment, habilitation, and program plan is developed for a person with ~~mental retardation~~ an intellectual disability, a developmental disability, brain injury, or chronic mental illness, the person has the right to participate in the formulation of the plan.

Sec. 73. Section 225C.32, Code 2011, is amended to read as follows:

225C.32 Plan appeals process.

The department shall establish an appeals process by which a mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities coordinating board or an affected party may appeal a decision of the department or of the coordinating board.

Sec. 74. Section 225C.52, subsection 1, Code 2011, is amended to read as follows:

1. Establishing a comprehensive community-based mental health services system for children and youth is part of fulfilling the requirements of the division and the commission to facilitate a comprehensive, continuous, and integrated state

mental health and disability services plan in accordance with sections 225C.4, 225C.6, and 225C.6A, and other provisions of this chapter. The purpose of establishing the children's system is to improve access for children and youth with serious emotional disturbances and youth with other qualifying mental health disorders to mental health treatment, services, and other support in the least restrictive setting possible so the children and youth can live with their families and remain in their communities. The children's system is also intended to meet the needs of children and youth who have mental health disorders that co-occur with substance abuse, ~~mental retardation~~ intellectual disability, developmental disabilities, or other disabilities. The children's system shall emphasize community-level collaborative efforts between children and youth and the families and the state's systems of education, child welfare, juvenile justice, health care, substance abuse, and mental health.

Sec. 75. Section 226.8, Code 2011, is amended to read as follows:

226.8 Persons with ~~mental retardation~~ an intellectual disability not receivable — exception.

No A person who is mentally retarded has an intellectual disability, as defined by in section ~~222.2~~ 4.1, shall not be admitted, or transferred pursuant to section 222.7, to a state mental health institute unless a professional diagnostic evaluation indicates that such person will benefit from psychiatric treatment or from some other specific program available at the mental health institute to which it is proposed to admit or transfer the person. Charges for the care of any person with ~~mental retardation~~ an intellectual disability admitted to a state mental health institute shall be made by the institute in the manner provided by chapter 230, but the liability of any other person to any county for the cost of care of such person with ~~mental retardation~~ an intellectual disability shall be as prescribed by section 222.78.

Sec. 76. Section 226.9C, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. A county may split the charges between the county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund created pursuant to section 331.424A and the county's budget for substance abuse expenditures.

Sec. 77. Section 227.2, subsections 1, 2, and 4, Code 2011, are amended to read as follows:

1. The director of inspections and appeals shall make, or cause to be made, at least one licensure inspection each year of every county care facility. Either the administrator of the division or the director of inspections and appeals, in cooperation with each other, upon receipt of a complaint or for good cause, may make, or cause to be made, a review of a county care facility or of any other private or county institution where persons with mental illness or ~~mental retardation~~ an intellectual disability reside. A licensure inspection or a review shall be made by a competent and disinterested person who is acquainted with and interested in the care of persons with mental illness and persons with ~~mental retardation~~ an intellectual disability. The objective of a licensure inspection or a review shall be an evaluation of the programming and treatment provided by the facility. After each licensure inspection of a county care facility, the person who made the inspection shall consult with the county authorities on plans and practices that will improve the care given patients and shall make recommendations to the administrator of the division and the director of public health for coordinating and improving the relationships between the administrators of county care facilities, the administrator of the division, the director of public health, the superintendents of state mental health institutes and resource centers, community mental health centers, and other cooperating agencies, to cause improved and more satisfactory care of patients. A written report of each licensure inspection of a county care facility under this section shall be filed with the administrator of the division and the director of public health and shall include:

a. The capacity of the institution for the care of residents.

b. The number, sex, ages, and primary diagnoses of the residents.

c. The care of residents, their food, clothing, treatment plan, employment, and opportunity for recreational activities and for productive work intended primarily as therapeutic activity.

d. The number, job classification, sex, duties, and salaries of all employees.

e. The cost to the state or county of maintaining residents in a county care facility.

f. The recommendations given to and received from county authorities on methods and practices that will improve the conditions under which the county care facility is operated.

g. Any failure to comply with standards adopted under section 227.4 for care of persons with mental illness and persons with ~~mental retardation~~ an intellectual disability in county care facilities, which is not covered in information submitted pursuant to paragraphs "a" to "f", and any other matters which the director of public health, in consultation with the administrator of the division, may require.

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the county mental health and ~~mental retardation~~ intellectual disability coordinating board or to its advisory board if the county board of supervisors constitutes ex officio the coordinating board, to the administrator of the county care facility inspected and to its resident advocate committee, and to the department on aging.

4. In addition to the licensure inspections required or authorized by this section, the administrator of the division shall cause to be made an evaluation of each person cared for in a county care facility at least once each year by one or more qualified mental health, ~~mental retardation~~ intellectual disability, or medical professionals, whichever is appropriate.

a. It is the responsibility of the state to secure the annual evaluation for each person who is on convalescent leave or who has not been discharged from a state mental health institute. It is the responsibility of the county to secure the annual evaluation for all other persons with mental illness in the county care facility.

b. It is the responsibility of the state to secure the annual evaluation for each person who is on leave and has not been discharged from a state resource center. It is the responsibility of the county to secure the annual evaluation for all other persons with ~~mental retardation~~ an intellectual disability in the county care facility.

c. It is the responsibility of the county to secure an annual evaluation of each resident of a county care facility to whom neither paragraph "a" nor paragraph "b" is applicable.

Sec. 78. Section 227.4, Code 2011, is amended to read as follows:

227.4 Standards for care of persons with mental illness or ~~mental retardation~~ an intellectual disability in county care

facilities.

The administrator, in cooperation with the department of inspections and appeals, shall recommend and the mental health and disability services commission created in section 225C.5 shall adopt standards for the care of and services to persons with mental illness or ~~mental retardation~~ an intellectual disability residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that persons with mental illness or ~~mental retardation~~ an intellectual disability who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, county mental health and developmental disabilities regional planning councils, and county care facility resident advocate committees to assist in the establishment of standards.

Sec. 79. Section 227.6, Code 2011, is amended to read as follows:

227.6 Removal of residents.

If a county care facility fails to comply with rules and standards adopted under this chapter, the administrator may remove all persons with mental illness and all persons with ~~mental retardation~~ an intellectual disability cared for in the county care facility at public expense, to the proper state mental health institute or resource center, or to some private or county institution or hospital for the care of persons with mental illness or ~~mental retardation~~ an intellectual disability that has complied with the rules prescribed by the administrator. Residents being transferred to a state mental health institute or resource center shall be accompanied by an attendant or attendants sent from the institute or resource center. If a resident is transferred under this section, at least one attendant shall be of the same sex. If the administrator finds that the needs of residents with mental illness and residents with ~~mental retardation~~ an intellectual disability of any other county or private institution are not

being adequately met, those residents may be removed from that institution upon order of the administrator.

Sec. 80. Section 229.1, subsection 9, Code Supplement 2011, is amended to read as follows:

9. "*Mental illness*" means every type of mental disease or mental disorder, except that it does not refer to ~~mental retardation~~ an intellectual disability as defined in section ~~222.2, subsection 5~~ 4.1, or to insanity, diminished responsibility, or mental incompetency as the terms are defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules.

Sec. 81. Section 229.26, Code 2011, is amended to read as follows:

229.26 Exclusive procedure for involuntary hospitalization.

Sections 229.6 through 229.19 constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that this chapter does not negate the provisions of section 904.503 relating to transfer of prisoners with mental illness to state hospitals for persons with mental illness and does not apply to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, or negate the provisions of section 232.51 relating to disposition of children with mental illness or ~~mental retardation~~ an intellectual disability.

Sec. 82. Section 230.33, Code 2011, is amended to read as follows:

230.33 Reciprocal agreements.

The administrator may enter into agreements with other states, through their duly constituted authorities, to effect the reciprocal return of persons with mental illness and persons with ~~mental retardation~~ an intellectual disability to the contracting states, and to effect the reciprocal supervision of persons on convalescent leave.

Provided that in the case of a proposed transfer of a person with mental illness or ~~mental retardation~~ an intellectual disability from this state that no final action be taken without the approval either of the commission of hospitalization, or of the district court, of the county of admission or commitment.

Sec. 83. Section 231.4, subsection 1, paragraph m, Code Supplement 2011, is amended to read as follows:

m. "*Resident*" means a resident or tenant of a long-term

care facility, assisted living program, or elder group home, excluding facilities licensed primarily to serve persons with ~~mental-retardation~~ an intellectual disability or mental illness.

Sec. 84. Section 231.42, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Establish and implement a statewide confidential uniform reporting system for receiving, analyzing, referring, investigating, and resolving complaints about administrative actions and the health, safety, welfare, and rights of residents or tenants of long-term care facilities, assisted living programs, and elder group homes, excluding facilities licensed primarily to serve persons with ~~mental-retardation~~ an intellectual disability or mental illness.

Sec. 85. Section 232.51, subsection 2, Code Supplement 2011, is amended to read as follows:

2. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child ~~is mentally retarded~~ has an intellectual disability, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court and such proceedings shall adhere to the requirements of chapter 222.

Sec. 86. Section 232.51, subsection 3, paragraph a, Code Supplement 2011, is amended to read as follows:

a. If prior to the adjudicatory or dispositional hearing on the pending delinquency petition, the child is committed as a child with a mental illness or ~~mental-retardation~~ an intellectual disability and is ordered into a residential facility, institution, or hospital for inpatient treatment, the delinquency proceeding shall be suspended until such time as the juvenile court either terminates the civil commitment order or the child is released from the residential facility, institution, or hospital for purposes of receiving outpatient treatment.

Sec. 87. Section 232.175, Code 2011, is amended to read as follows:

232.175 Placement oversight.

Placement oversight shall be provided pursuant to this division when the parent, guardian, or custodian of a child with ~~mental-retardation~~ an intellectual disability or other developmental disability requests placement of the child

in foster family care for a period of more than thirty days. The oversight shall be provided through review of the placement every six months by the department's foster care review committees or by a local citizen foster care review board. Court oversight shall be provided prior to the initial placement and at periodic intervals which shall not exceed twelve months. It is the purpose and policy of this division to ~~assure~~ ensure the existence of oversight safeguards as required by the federal Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

Sec. 88. Section 232.178, subsection 4, Code 2011, is amended to read as follows:

4. The petition shall describe the child's emotional, physical, or intellectual disability which requires care and treatment; the reasonable efforts to maintain the child in the child's home; the department's request to the family of a child with ~~mental retardation~~ an intellectual disability, other developmental disability, or organic mental illness to determine if any services or support provided to the family will enable the family to continue to care for the child in the child's home; and the reason the child's parent, guardian, or custodian has requested a foster family care placement. The petition shall also describe the commitment of the parent, guardian, or custodian in fulfilling the responsibilities defined in the case permanency plan and how the placement will serve the child's best interests.

Sec. 89. Section 232.182, subsection 5, paragraph a, subparagraph (4), Code 2011, is amended to read as follows:

(4) A determination that services or support provided to the family of a child with ~~mental retardation~~ an intellectual disability, other developmental disability, or organic mental illness will not enable the family to continue to care for the child in the child's home.

Sec. 90. Section 233A.14, Code 2011, is amended to read as follows:

233A.14 Transfers to other institutions.

The administrator may transfer to the schools minor wards of the state from any institution under the administrator's charge but no person shall be so transferred who is mentally ill or ~~mentally retarded~~ has an intellectual disability. Any child in the schools who is mentally ill or ~~mentally retarded~~ has an

intellectual disability may be transferred by the administrator to the proper state institution.

Sec. 91. Section 233B.5, Code 2011, is amended to read as follows:

233B.5 Transfers.

The administrator may transfer to the home minor wards of the state from any institution under the administrator's charge or under the charge of any other administrator of the department of human services; but no person shall be so transferred who is a person with mental illness or ~~mental retardation~~ an intellectual disability, or who is incorrigible, or has any vicious habits, or whose presence in the home would be inimical to the moral or physical welfare of the other children within the home, and any such child in the home may be transferred to the proper state institution.

Sec. 92. Section 234.6, subsection 6, paragraph f, Code 2011, is amended to read as follows:

f. Services or support provided to a child with ~~mental retardation~~ an intellectual disability or other developmental disability or to the child's family.

Sec. 93. Section 235.1, subsection 3, Code 2011, is amended to read as follows:

3. "*Child welfare services*" means social welfare services for the protection and care of children who are homeless, dependent or neglected, or in danger of becoming delinquent, or who have a mental illness or ~~mental retardation~~ an intellectual disability or other developmental disability, including, when necessary, care and maintenance in a foster care facility. Child welfare services are designed to serve a child in the child's home whenever possible. If not possible, and the child is placed outside the child's home, the placement should be in the least restrictive setting available and in close proximity to the child's home.

Sec. 94. Section 235A.15, subsection 2, paragraph c, subparagraph (9), Code Supplement 2011, is amended to read as follows:

(9) To the administrator of an agency providing mental health, ~~mental retardation~~ intellectual disability, or developmental disability services under a county management plan developed pursuant to section 331.439, if the data concerns a person employed by or being considered by the agency for employment.

Sec. 95. Section 235B.6, subsection 2, paragraph c,

subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) To the administrator of an agency providing mental health, ~~mental-retardation~~ intellectual disability, or developmental disability services under a county management plan developed pursuant to section 331.439, if the information concerns a person employed by or being considered by the agency for employment.

Sec. 96. Section 249A.2, subsection 4, Code 2011, is amended to read as follows:

4. "*Discretionary medical assistance*" means medical assistance or additional medical assistance provided to individuals whose income and resources are in excess of eligibility limitations but are insufficient to meet all of the costs of necessary medical care and services, provided that if the assistance includes services in institutions for mental diseases or intermediate care facilities for persons with ~~mental-retardation~~ an intellectual disability, or both, for any group of such individuals, the assistance also includes for all covered groups of such individuals at least the care and services enumerated in Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), and (17), as codified in 42 U.S.C. § 1396d(a), pars. (1) through (5), and (17), or any seven of the care and services enumerated in Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (7) and (9) through (18), as codified in 42 U.S.C. § 1396d(a), pars. (1) through (7), and (9) through (18).

Sec. 97. Section 249A.5, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The provision of medical assistance to an individual who is fifty-five years of age or older, or who is a resident of a nursing facility, intermediate care facility for persons with ~~mental-retardation~~ an intellectual disability, or mental health institute, who cannot reasonably be expected to be discharged and return to the individual's home, creates a debt due the department from the individual's estate for all medical assistance provided on the individual's behalf, upon the individual's death.

Sec. 98. Section 249A.5, subsection 2, paragraph f, subparagraph (1), Code 2011, is amended to read as follows:

(1) If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility,

intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, or mental health institute in which the recipient resided at the time of the recipient's death, and the personal representative of the recipient, if applicable, shall report the death to the department within ten days of the death of the recipient.

Sec. 99. Section 249A.12, subsection 1, Code 2011, is amended to read as follows:

1. Assistance may be furnished under this chapter to an otherwise eligible recipient who is a resident of a health care facility licensed under chapter 135C and certified as an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

Sec. 100. Section 249A.12, subsection 4, paragraphs a and c, Code 2011, are amended to read as follows:

a. Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with ~~mental retardation~~ an intellectual disability services provided under medical assistance to minors. Notwithstanding subsection 2 and contrary provisions of section 222.73, effective July 1, 1995, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services provided to minors.

c. Effective February 1, 2002, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with ~~mental retardation~~ an intellectual disability services provided under medical assistance attributable to the assessment fee for intermediate care facilities for individuals with ~~mental retardation~~ an intellectual disability imposed pursuant to section 249A.21. Notwithstanding subsection 2, effective February 1, 2003, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services attributable to the assessment fee.

Sec. 101. Section 249A.12, subsection 5, Code 2011, is amended to read as follows:

5. a. The mental health and disability services commission shall recommend to the department the actions necessary to assist in the transition of individuals being served in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, who are appropriate for the transition, to services funded under a medical assistance

home and community-based services waiver for persons with an intellectual disabilities disability in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance home and community-based services waiver for persons with intellectual disabilities:

(1) Allow for the transition of intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability licensed under chapter 135C, to services funded under the medical assistance home and community-based services waiver for persons with an intellectual disabilities disability. The request shall be for inclusion of additional persons under the waiver associated with the transition.

(2) Allow for reimbursement under the waiver for day program or other service costs.

(3) Allow for exception provisions in which an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability which does not meet size and other facility-related requirements under the waiver in effect on June 30, 1996, may convert to a waiver service for a set period of time such as five years. Following the set period of time, the facility would be subject to the waiver requirements applicable to services which were not operating under the exception provisions.

b. In implementing the provisions of this subsection, the mental health and disability services commission shall consult with other states. The waiver revision request or other action necessary to assist in the transition of service provision from intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability to alternative programs shall be implemented by the department in a manner that can appropriately meet the needs of individuals at an overall lower cost to counties, the federal government, and the state. In addition, the department shall take into consideration significant federal changes to the medical assistance program in formulating the department's actions under this subsection. The department shall consult with the mental health and disability services commission in adopting rules for oversight of facilities converted pursuant to this subsection. A transition approach described in paragraph "a" may be modified as necessary to obtain federal waiver approval.

Sec. 102. Section 249A.12, subsection 6, paragraphs a and d, Code 2011, are amended to read as follows:

a. The provisions of the home and community-based services waiver for persons with an intellectual disabilities disability shall include adult day care, prevocational, and transportation services. Transportation shall be included as a separately payable service.

d. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the costs of care provided for adults which is reimbursed under a home and community-based services waiver that would otherwise be approved for provision in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability provided under the medical assistance program.

Sec. 103. Section 249A.12, subsections 7 and 8, Code 2011, are amended to read as follows:

7. When paying the necessary and legal expenses for intermediate care facility for persons with ~~mental retardation~~ an intellectual disability services, the cost requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established by the department for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability, and the state or a county of legal settlement shall not be obligated for any amount in excess of the rates.

8. If a person with ~~mental retardation~~ an intellectual disability has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case and services associated with the ~~mental retardation~~ intellectual disability can be covered under a medical assistance home and community-based services waiver or other medical assistance program provision, the nonfederal share of the medical assistance program costs for such coverage shall be paid from the appropriation made for the medical assistance program.

Sec. 104. Section 249A.21, subsections 1 and 6, Code 2011, are amended to read as follows:

1. The department may assess intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability, as defined in section 135C.1, a fee in an amount not to exceed six percent of the total annual revenue of the facility for the preceding fiscal year.

6. The department may adopt administrative rules under section 17A.4, subsection 3, and section 17A.5, subsection 2,

paragraph "b", to implement this section, and any fee assessed pursuant to this section against an intermediate care facility for persons with ~~mental-retardation~~ an intellectual disability that is operated by the state may be made retroactive to October 1, 2003.

Sec. 105. Section 249A.26, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Except as provided for disallowed costs in section 249A.27, the county of legal settlement shall pay for fifty percent of the nonfederal share of the cost and the state shall have responsibility for the remaining fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with ~~mental-retardation~~ an intellectual disability, a developmental disability, or chronic mental illness. For purposes of this section, persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill. To the maximum extent allowed under federal law and regulations, the department shall consult with and inform a county of legal settlement's central point of coordination process, as defined in section 331.440, regarding the necessity for and the provision of any service for which the county is required to provide reimbursement under this subsection.

Sec. 106. Section 249A.26, subsections 3, 7, and 9, Code 2011, are amended to read as follows:

3. To the maximum extent allowed under federal law and regulations, a person with mental illness or ~~mental-retardation~~ an intellectual disability shall not be eligible for any service which is funded in whole or in part by a county share of the nonfederal portion of medical assistance funds unless the person is referred through the central point of coordination process, as defined in section 331.440. However, to the extent federal law allows referral of a medical assistance recipient to a service without approval of the central point of coordination process, the county of legal settlement shall be billed for the nonfederal share of costs for any adult person for whom the county would otherwise be responsible.

7. Unless a county has paid or is paying for the nonfederal share of the costs of a person's home and community-based waiver services or placement in an intermediate care facility for persons with ~~mental-retardation~~ an intellectual

disability under the county's mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund, or unless a county of legal settlement would become liable for the costs of services for a person at the level of care provided in an intermediate care facility for persons with ~~mental-retardation~~ an intellectual disability due to the person reaching the age of majority, the state shall pay for the nonfederal share of the costs of an eligible person's services under the home and community-based services waiver for persons with brain injury.

9. Notwithstanding section 8.39, the department may transfer funds appropriated for the medical assistance program to a separate account established in the department's case management unit in an amount necessary to pay for expenditures required to provide case management for mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services under the medical assistance program which are jointly funded by the state and county, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were originally appropriated.

Sec. 107. Section 249A.30A, Code Supplement 2011, is amended to read as follows:

249A.30A Medical assistance — personal needs allowance.

The personal needs allowance under the medical assistance program, which may be retained by a person who is a resident of a nursing facility, an intermediate care facility for persons with ~~mental-retardation~~ an intellectual disability, or an intermediate care facility for persons with mental illness, as defined in section 135C.1, or a person who is a resident of a psychiatric medical institution for children as defined in section 135H.1, shall be fifty dollars per month. A resident who has income of less than fifty dollars per month shall receive a supplement from the state in the amount necessary to receive a personal needs allowance of fifty dollars per month, if funding is specifically appropriated for this purpose.

Sec. 108. Section 249A.31, subsection 1, Code 2011, is amended to read as follows:

1. Providers of individual case management services for persons with ~~mental-retardation~~ an intellectual disability, a developmental disability, or chronic mental illness shall receive cost-based reimbursement for one hundred percent of

the reasonable costs for the provision of the services in accordance with standards adopted by the mental health and disability services commission pursuant to section 225C.6.

Sec. 109. Section 252.16, subsection 6, paragraph c, Code 2011, is amended to read as follows:

c. A blind person who is an inpatient or resident of, is supported by, or is receiving treatment or support services from a state resource center created under chapter 222, a state mental health institute created under chapter 226, the Iowa braille and sight saving school administered by the state board of regents, or any community-based provider of treatment or services for ~~mental retardation~~ an intellectual disability, developmental disabilities, mental health, or substance abuse, does not acquire legal settlement in the county in which the institution, facility, or provider is located, unless the blind person has resided in the county in which the institution, facility, or provider is located for a period of six months prior to the date of commencement of receipt of assistance under the laws of this state or for a period of six months subsequent to the date of termination of assistance under the laws of this state.

Sec. 110. Section 252.16, subsection 8, Code 2011, is amended to read as follows:

8. A person receiving treatment or support services from any provider, whether organized for pecuniary profit or not or whether supported by charitable or public or private funds, that provides treatment or services for ~~mental retardation~~ intellectual disability, developmental disabilities, mental health, brain injury, or substance abuse does not acquire legal settlement in a county unless the person continuously resides in that county for one year from the date of the last treatment or support service received by the person.

Sec. 111. Section 262.70, Code 2011, is amended to read as follows:

262.70 Education, prevention, and research programs in mental health and disability services.

The division of mental health and disability services of the department of human services may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health, ~~mental retardation~~ intellectual disability, developmental disabilities, and brain injury. The board may delegate responsibility for these

programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

Sec. 112. Section 263.11, subsection 2, Code 2011, is amended to read as follows:

2. Persons who are not eligible for admission to the schools already established for persons with ~~mental-retardation~~ an intellectual disability or epilepsy or persons who are deaf or blind.

Sec. 113. Section 331.381, subsection 4, Code 2011, is amended to read as follows:

4. Comply with chapter 222, including but not limited to sections 222.13, 222.14, and 222.59 to 222.82, in regard to the care of persons with ~~mental-retardation~~ an intellectual disability.

Sec. 114. Section 331.424A, subsections 1, 2, and 5, Code Supplement 2011, are amended to read as follows:

1. For the purposes of this chapter, unless the context otherwise requires, "*services fund*" means the county mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund created in subsection

2. The county finance committee created in section 333A.2 shall consult with the state commission in adopting rules and prescribing forms for administering the services fund.

2. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, county revenues from taxes and other sources designated for mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services shall be credited to the mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund of the county. The board shall make appropriations from the fund for payment of services provided under the county management plan approved pursuant to section 331.439. The county may pay for the services in cooperation with other counties by pooling appropriations from the fund with other counties or through county regional entities including but not limited to the county's mental health and developmental disabilities regional planning council created pursuant to section 225C.18.

5. Appropriations specifically authorized to be made from the mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund shall not be made from any other fund of the county.

Sec. 115. Section 331.432, subsection 3, Code Supplement 2011, is amended to read as follows:

3. Except as authorized in section 331.477, transfers of moneys between the county mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund and any other fund are prohibited.

Sec. 116. Section 331.438, subsection 1, paragraphs a and b, Code Supplement 2011, are amended to read as follows:

a. "Base year expenditures" means the amount selected by a county and reported to the county finance committee pursuant to this paragraph. The amount selected shall be equal to the amount of net expenditures made by the county for qualified mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services provided in one of the following:

(1) The actual amount reported to the state on October 15, 1994, for the fiscal year beginning July 1, 1993.

(2) The net expenditure amount contained in the county's final budget certified in accordance with chapter 24 for the fiscal year beginning July 1, 1995, and reported to the county finance committee.

b. "Qualified mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services" means the services specified in the rules adopted by the state commission for administering the services fund, pursuant to section 331.424A.

Sec. 117. Section 331.438, subsection 4, paragraph a, Code Supplement 2011, is amended to read as follows:

a. The state commission shall make recommendations and take actions for joint state and county planning, implementing, and funding of mental health, ~~mental-retardation~~ intellectual disability or other developmental disabilities, and brain injury services, including but not limited to developing and implementing fiscal and accountability controls, establishing management plans, and ensuring that eligible persons have access to appropriate and cost-effective services.

Sec. 118. Section 331.438, subsection 4, paragraph b, subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) Consider recommendations for measuring and improving the quality of state and county mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services and other support.

Sec. 119. Section 331.439, subsection 1, paragraphs a, b, and f, Code Supplement 2011, are amended to read as follows:

a. The county accurately reported by December 1 the county's expenditures for mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services and the information required under section 225C.6A, subsection 3, paragraph "c", for the previous fiscal year in accordance with rules adopted by the state commission. If the department determines good cause exists, the department may extend a deadline otherwise imposed under this chapter, chapter 225C, or chapter 426B for a county's reporting concerning mental health, ~~mental-retardation~~ intellectual disability, or developmental disabilities services or related revenues and expenditures.

b. The county developed and implemented a county management plan for the county's mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services system in accordance with the provisions of this paragraph "b". The plan shall comply with the administrative rules adopted for this purpose by the state commission and is subject to the approval of the director of human services in consultation with the state commission. The plan shall include a description of the county's service management provision for mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services. For ~~mental-retardation~~ intellectual disability and developmental disabilities service management, the plan shall describe the county's development and implementation of a system of cost-effective individualized services and shall comply with the provisions of paragraph "f". The goal of this part of the plan shall be to assist the individuals served to be as independent, productive, and integrated into the community as possible. The service management provisions for mental health shall comply with the provisions of paragraph "e". A county is subject to all of the following provisions in regard to the county's services system management plan and planning process:

(1) The county shall have in effect an approved policies and procedures manual for the county's services fund. The county management plan shall be defined in the manual. The manual submitted by the county as part of the county's management plan for the fiscal year beginning July 1, 2000, as approved by the director of human services, shall remain in effect, subject to amendment. An amendment to the manual shall be submitted to the department of human services at least forty-five days prior

to the date of implementation. Prior to implementation of any amendment to the manual, the amendment must be approved by the director of human services in consultation with the state commission.

(2) For informational purposes, the county shall submit a management plan review to the department of human services by December 1 of each year. The annual review shall incorporate an analysis of the data associated with the services system managed during the preceding fiscal year by the county or by a private entity on behalf of the county. The annual review shall also identify measurable outcomes and results showing the county's progress in fulfilling the purposes listed in paragraph "c", and in achieving the disability services outcomes and indicators identified by the commission pursuant to section 225C.6.

(3) For informational purposes, every three years the county shall submit to the department of human services a three-year strategic plan. The strategic plan shall describe how the county will proceed to attain the plan's goals and objectives, and the measurable outcomes and results necessary for moving the county's services system toward an individualized, community-based focus in accordance with paragraph "c". The three-year strategic plan shall be submitted by April 1, 2000, and by April 1 of every third year thereafter.

f. For ~~mental-retardation~~ intellectual disability and developmental disabilities services management, the county must either develop and implement a system of care which addresses a full array of appropriate services and cost-effective delivery of services by contracting directly with service providers or by contracting with a state-approved private entity to manage the county services system. The county services system shall incorporate a central point of coordination and clinical assessment process developed in accordance with the provisions of section 331.440. The elements of a county services system shall be specified in rules developed by the department of human services in consultation with and adopted by the state commission.

Sec. 120. Section 331.439, subsection 3, paragraph a, Code Supplement 2011, is amended to read as follows:

a. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, the county's mental health, ~~mental-retardation~~ intellectual disability, and developmental

disabilities service expenditures for a fiscal year are limited to a fixed budget amount. The fixed budget amount shall be the amount identified in the county's management plan and budget for the fiscal year. The county shall be authorized an allowed growth factor adjustment as established by statute for services paid from the county's services fund under section 331.424A which is in accordance with the county's management plan and budget, implemented pursuant to this section. The statute establishing the allowed growth factor adjustment shall establish the adjustment for the fiscal year which commences two years from the beginning date of the fiscal year in progress at the time the statute is enacted.

Sec. 121. Section 331.439, subsection 6, Code Supplement 2011, is amended to read as follows:

6. The director's approval of a county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services management plan shall not be construed to constitute certification of the county's budget.

Sec. 122. Section 331.440, subsection 1, paragraphs a and b, Code Supplement 2011, are amended to read as follows:

a. For the purposes of this section, unless the context otherwise requires, "*central point of coordination process*" means a central point of coordination process established by a county or consortium of counties for the delivery of mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services which are paid for in whole or in part by county funds. The central point of coordination process may include but is not limited to reviewing a person's eligibility for services, determining the appropriateness of the type, level, and duration of services, and performing periodic review of the person's continuing eligibility and need for services. Any recommendations developed concerning a person's plan of services shall be consistent with the person's unique strengths, circumstances, priorities, concerns, abilities, and capabilities. For those services funded under the medical assistance program, the central point of coordination process shall be used to ~~assure~~ ensure that the person is aware of the appropriate service options available to the person.

b. The central point of coordination process may include a clinical assessment process to identify a person's service needs and to make recommendations regarding the person's plan for services. The clinical assessment process shall utilize

qualified mental health professionals and qualified ~~mental retardation~~ intellectual disability professionals.

Sec. 123. Section 331.440, subsection 2, paragraph d, Code Supplement 2011, is amended to read as follows:

d. "State case services and other support" means the mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services and other support paid for under the rules and requirements in effect prior to October 1, 2006, from the annual appropriation made to the department of human services for such services and other support provided to persons who have no established county of legal settlement or the legal settlement is unknown so that the person is deemed to be a state case. Such services and other support do not include medical assistance program services or services provided in a state institution.

Sec. 124. Section 331.502, subsection 11, Code 2011, is amended to read as follows:

11. Carry out duties relating to the determination of legal settlement, collection of funds due the county, and support of persons with ~~mental retardation~~ an intellectual disability as provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69, and 222.74.

Sec. 125. Section 331.756, subsections 42 and 43, Code Supplement 2011, are amended to read as follows:

42. Carry out duties relating to the commitment of a person with ~~mental retardation~~ an intellectual disability as provided in section 222.18.

43. Proceed to collect, as requested by the county, the reasonable costs for the care, treatment, training, instruction, and support of a person with ~~mental retardation~~ an intellectual disability from parents or other persons who are legally liable for the support of the person with ~~mental retardation~~ an intellectual disability as provided in section 222.82.

Sec. 126. Section 335.25, subsection 2, paragraph b, subparagraphs (1) and (2), Code 2011, are amended to read as follows:

(1) Attributable to ~~mental retardation~~ an intellectual disability, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to ~~mental retardation~~ an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that

of persons with ~~mental-retardation~~ an intellectual disability or requires treatment and services similar to those required for the persons.

Sec. 127. Section 347.9A, subsection 3, Code 2011, is amended to read as follows:

3. This section does not prohibit a licensed health care practitioner from serving as a hospital trustee if the practitioner's sole use of the county hospital is to provide health care service to an individual with ~~mental-retardation~~ an intellectual disability as defined in section 222.2 4.1.

Sec. 128. Section 414.22, subsection 2, paragraph b, subparagraphs (1) and (2), Code 2011, are amended to read as follows:

(1) Attributable to ~~mental-retardation~~ an intellectual disability, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to ~~mental-retardation~~ an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with ~~mental-retardation~~ an intellectual disability or requires treatment and services similar to those required for the persons.

Sec. 129. Section 422.7, subsection 12, paragraph c, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) "*Physical or mental impairment*" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including ~~mental-retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Sec. 130. Section 422.35, subsection 6, paragraph c, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) "*Physical or mental impairment*" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including ~~mental-retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Sec. 131. Section 423.3, subsection 18, paragraphs a and c, Code Supplement 2011, are amended to read as follows:

a. Residential care facilities and intermediate care

facilities for persons with ~~mental-retardation~~ an intellectual disability and residential care facilities for persons with mental illness licensed by the department of inspections and appeals under chapter 135C.

c. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the commission on accreditation of rehabilitation facilities or the accreditation council for services for persons with ~~mental-retardation~~ an intellectual disability and other persons with developmental disabilities and adult day care services approved for reimbursement by the state department of human services.

Sec. 132. Section 426B.2, subsection 3, paragraph b, Code 2011, is amended to read as follows:

b. Any replacement generation tax in the property tax relief fund as of May 1 shall be paid to the county treasurers in July and January of the fiscal year beginning the following July 1. The department of management shall determine the amount each county will be paid pursuant to this lettered paragraph for the following fiscal year. The department shall reduce by the determined amount the amount of each county's certified budget to be raised by property tax for that fiscal year which is to be expended for mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services and shall revise the rate of taxation as necessary to raise the reduced amount. The department of management shall report the reduction in the certified budget and the revised rate of taxation to the county auditors by June 15.

Sec. 133. Section 426B.3, subsection 1, Code 2011, is amended to read as follows:

1. The county auditor shall reduce the certified budget amount received from the board of supervisors for the succeeding fiscal year for the county mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund created in section 331.424A by an amount equal to the amount the county will receive from the property tax relief fund pursuant to section 426B.2, for the succeeding fiscal year and the auditor shall determine the rate of taxation necessary to raise the reduced amount. On the tax list, the county auditor shall compute the amount of taxes due and payable on each parcel before and after the amount received from the property tax relief fund is used to reduce the county budget. The director of human services shall notify the county

auditor of each county of the amount of moneys the county will receive from the property tax relief fund pursuant to section 426B.2, for the succeeding fiscal year.

Sec. 134. Section 426B.5, subsection 1, paragraph d, subparagraph (1), subparagraph divisions (a) and (b), Code Supplement 2011, are amended to read as follows:

(a) The county is levying the maximum amount allowed for the county's mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund under section 331.424A for the fiscal year in which the funding is distributed.

(b) In the latest fiscal year reported in accordance with section 331.403, the county's mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund ending balance under generally accepted accounting principles was equal to or less than twenty-five percent of the county's actual gross expenditures for that fiscal year.

Sec. 135. Section 426B.5, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. For the purposes of this subsection, unless the context otherwise requires, "*services fund*" means a county's mental health, ~~mental-retardation~~ intellectual disability, and developmental disabilities services fund created in section 331.424A.

Sec. 136. Section 514E.7, subsection 2, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) Incapable of self-sustaining employment by reason of ~~mental-retardation~~ an intellectual disability or physical disability.

Sec. 137. Section 602.8102, subsections 36 and 37, Code 2011, are amended to read as follows:

36. Carry out duties relating to the commitment of a person with ~~mental-retardation~~ an intellectual disability as provided in sections 222.37 through 222.40.

37. Keep a separate docket of proceedings of cases relating to persons with ~~mental-retardation~~ an intellectual disability as provided in section 222.57.

Sec. 138. Section 633.556, subsection 1, Code 2011, is amended to read as follows:

1. If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by clear and convincing evidence, the

court may appoint a guardian. If the court appoints a guardian based upon mental incapacity of the proposed ward because the proposed ward is a person ~~described in section 222.2, subsection 5~~ with an intellectual disability, as defined in section 4.1, the court shall make a separate determination as to the ward's competency to vote. The court shall find a ward incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

Sec. 139. Section 633C.1, subsection 4, Code 2011, is amended to read as follows:

4. *"Maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability"* means the allowable rate established by the department of human services and as published in the Iowa administrative bulletin.

Sec. 140. Section 633C.3, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. For a beneficiary who meets the medical assistance level of care requirements for services in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability and who either resides in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability or is eligible for services under the medical assistance home and community-based services waiver except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

Sec. 141. Section 904.108, subsection 1, paragraph d, Code 2011, is amended to read as follows:

d. Establish and maintain acceptable standards of treatment, training, education, and rehabilitation in the various state penal and corrective institutions which shall include habilitative services and treatment for offenders with ~~mental retardation~~ an intellectual disability. For the purposes of this paragraph, *"habilitative services and treatment"* means medical, mental health, social, educational, counseling, and other services which will assist a person with ~~mental retardation~~ an intellectual disability to become self-reliant. However, the director may also provide rehabilitative treatment and services to other persons who require the services. The director shall identify all individuals entering the

correctional system who are persons with ~~mental-retardation~~ an intellectual disability, as defined in section ~~222.2,~~ ~~subsection 5~~ 4.1. Identification shall be made by a qualified professional in the area of ~~mental-retardation~~ intellectual disability. In assigning an offender with ~~mental-retardation~~ an intellectual disability, or an offender with an inadequately developed intelligence or with impaired mental abilities, to a correctional facility, the director shall consider both the program needs and the security needs of the offender. The director shall consult with the department of human services in providing habilitative services and treatment to offenders with mental illness or ~~mental-retardation~~ an intellectual disability. The director may enter into agreements with the department of human services to utilize mental health institutions and share staff and resources for purposes of providing habilitative services and treatment, as well as providing other special needs programming. Any agreement to utilize mental health institutions and to share staff and resources shall provide that the costs of the habilitative services and treatment shall be paid from state funds. Not later than twenty days prior to entering into any agreement to utilize mental health institution staff and resources, other than the use of a building or facility, for purposes of providing habilitative services and treatment, as well as other special needs programming, the directors of the departments of corrections and human services shall each notify the chairpersons and ranking members of the joint appropriations subcommittees that last handled the appropriation for their respective departments of the pending agreement. Use of a building or facility shall require approval of the general assembly if the general assembly is in session or, if the general assembly is not in session, the legislative council may grant temporary authority, which shall be subject to final approval of the general assembly during the next succeeding legislative session.

Sec. 142. Section 904.205, Code 2011, is amended to read as follows:

904.205 Clarinda correctional facility.

The state correctional facility at Clarinda shall be utilized as a secure men's correctional facility primarily for offenders with chemical dependence, ~~mental-retardation~~ an intellectual disability, or mental illness.

Sec. 143. Section 915.38, subsections 1 and 2, Code 2011,

are amended to read as follows:

1. Upon its own motion or upon motion of any party, a court may protect a minor, as defined in section 599.1, from trauma caused by testifying in the physical presence of the defendant where it would impair the minor's ability to communicate, by ordering that the testimony of the minor be taken in a room other than the courtroom and be televised by closed-circuit equipment for viewing in the courtroom. However, such an order shall be entered only upon a specific finding by the court that such measures are necessary to protect the minor from trauma. Only the judge, prosecuting attorney, defendant's attorney, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the minor may be present in the room with the minor during the minor's testimony. The judge shall inform the minor that the defendant will not be present in the room in which the minor will be testifying but that the defendant will be viewing the minor's testimony through closed-circuit television.

During the minor's testimony the defendant shall remain in the courtroom and shall be allowed to communicate with the defendant's counsel in the room where the minor is testifying by an appropriate electronic method.

In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, ~~mental retardation~~ an intellectual disability, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a minor, as defined in section 599.1, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 2.13(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the minor is unavailable as provided in rule of evidence 5.804(a), order the videotaping of the minor's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 2.13(2)(b), and shall be admissible as evidence in the trial. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, ~~mental retardation~~ an intellectual disability, or other developmental disability to

be taken as provided in this subsection, regardless of the age of the victim or witness.

JOHN P. KIBBIE
President of the Senate

KRAIG PAULSEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2247, Eighty-fourth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2012

TERRY E. BRANSTAD
Governor